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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,687	02/07/2001	Mark James Kline	8415	5337

27752 7590 07/28/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/28/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,687

Applicant(s)

KLINE ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003 and 09 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 and 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s): _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 4 and 22 is withdrawn in view of the newly discovered reference(s) to Leonardz (5,249,832). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 19-22, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Leonardz (5,249,832).

With respect to claim 4, Leonardz discloses an active external change aid 10, as shown in figure 1, for assisting in the application or removal of an article 25 worn externally on the body of a wearer 20, as described in column 5, lines 4-16. The change aid 10 comprises an effect generating element 16 which moves at least a portion of the article 25, in this case slide fastener tab 21, from a first point to a second point. The effect generating element 16 comprises a magnet 17.

With respect to claim 19, Leonardz discloses an active external change aid 10, as shown in figure 1, for assisting in the application or removal of an article 25 worn externally on the body of a wearer 20, as described in column 5, lines 4-16. The

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change aid 10 comprises an effect generating element 16 which performs a transformation which modifies at least a portion of the article 25 from a first condition to a second condition, in this case modifying the zipper from a zipped condition to an unzipped condition.

With respect to claims 20 and 21, the transformation comprises a change in material property, changing the size of the circumference of the article 25, as shown in figure 1.

With respect to claim 22, the effect generating element 16 is a magnet 17, which produces a magnetic effect.

With respect to claim 24, the transformation is temporary, as the zipper may be re-zipped or unzipped.

With respect to claim 25, the transformation comprises connecting a first portion of the article with a second portion of the article by connecting the opposing portions of the zipper, as shown in figure 1.

Claims 19-21, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavon et al. (5,330,495).

Lavon discloses the use of a disposable diaper 20 that is worn externally of the body, where a person can be considered an external change aid that is an effect generating element, where the effect is using an inflatable component 200 to provide a spacer element to maintain a fecal void space intermediate the topsheet and backsheet, as described in the abstract.

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With respect to claims 20 and 21, inflation changes the size of the spacer.

With respect to claim 24, Lavon discloses gas is allowed to be temporarily released as a rate less than 100cc/hour, as described in column 5, lines 48-52. The inflation is therefore temporary.

With respect to claim 25, inflation would cause the spacer element to contact the topsheet and push up on the topsheet to further separate the topsheet from the backsheet.

Claims 19-21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasse (5,769,832).

Hasse discloses the use of a disposable diaper 20 that is worn externally of the body, where a person can be considered an external change aid that is an effect generating element, where the effect is disengaging the adhesive tape fasteners from a release strip, to release perfume, as described in column 7, lines 52-65.

With respect to claims 20, 21, and 23, disengaging the tab exposes the adhesive, therefore increasing the tackiness of the tab and activating the tab.

With respect to claims 24 and 25, the adhesive tape could be attached to the backsheet (to fit the article around the wearer) and therefore the adhesive is not exposed and the tackiness is temporary.

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,015,296 pertains to an active change aid comprising a magnet. U.S. Patent 4,892,239 pertains to an active change aid comprising an electric current. U.S. Patent 6,080,189 pertains to an active change aid comprising a thermal effect. U.S. Patents 4,915,272; 5,566,398; and 5,658,353 pertain to active change aids comprising air jets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

WA
cla
July 22, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3760